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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/072,144      | 02/07/2002  | Lutz Maas            | 20294.004           | 1442             |

21878 7590 11/07/2003

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CHARLOTTE, NC 28202

EXAMINER

DEL SOLE, JOSEPH S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1722

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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10/03/2003

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*Re-mailed address incorrect*

# Office Action Summary

Application No.

10/072,144

Applicant(s)

MAAS ET AL.

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
3. The information disclosure statements filed 4/29/02 and 9/24/02 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP 609. They has been placed with the application file and the information referred to therein has been considered as to its merits. In the IDS of 9/24/02, reference DE3708168A1 has been crossed out because it is a duplicate listing (the reference has been considered but it is also listed on the IDS of 4/29/02). Also in the IDS of 9/24/02, the reference to "European Search Report" has been crossed out because identifying information such as publication date (see 37 CFR 1.98(b)) has been left out. However, the Examiner has reviewed the search report and has reviewed the references listed on the search report, specifically: DE3708168, DE19653451, EP0957187 and WO9215732. The Examiner notes that each of these references are separately listed on the IDS of 4/29/02 or 9/24/02.

***Oath/Declaration***

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not correctly identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, because the filing date of 101 05 440.8 is listed as 07 February 2002. The Examiner notes that this must be 07 February 2001.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 6-7, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Glawion et al (6,062,838).

Glawion et al teach a device for melt extrusion spinning and cooling of a filament bundle by a spinning device (Fig 1) having an annular spinning jet (Fig 1, #1) and a cooling device (Fig 1) arranged below the spinning device; the cooling device has a blowing chamber (Fig 1, #70) for directing a coolant stream onto the filament bundle and a holding device (Fig 1, #8) for engaging the blowing chamber between the spinning device and the holding device in an operating position of the blowing chamber substantially centrally to the spinning jet (Fig 1), the blowing chamber being displaceable axially relative to the holding device between the operating position and a

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replacement position (col 6, lines 37-67 and Fig 5 shows that blower pieces 7 and 6 can be moved with or relative to holder 8 and unthreaded completely for removal); the blowing chamber and the holding device are detachably connected to one another (Fig 5, the threaded connections of #s 10, 11 and 12) (the limitation "to facilitate replacement of the blowing chamber in the replacement position" is a process limitation not having weight in an apparatus claim (see MPEP 2114 and 2115), the reference need not teach replacement, but merely teach detachability of the components); the blowing chamber is connected at an end thereof facing the holding device to a tubular connection element, the holding device has a tubular receiving element for receiving the connection element, and the connection element and the receiving element are connected to one another by insertion of one thereon into the other thereof for relative movement of the connection element and the receiving element (Fig 5); the blowing chamber and the connection element are detachably connected to one another (Fig 5); a plurality of guide elements (Fig 5, the threads of #s 10 and 11) guide shifting, rotating and locking movements of the connection element relative to the receiving element; and the holding device is adjustable both elevationally and rotationally relative to the spinning device (col 6, lines 37-67).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glawion (6,062,838) in view of Schwarz et al (5,866,055).

Glawion et al teach the apparatus as discussed above including a preparation device (Fig 1, #s17 and 19 and col 4, lines 49-65).

Glawion et al fail to teach the preparation device disposed on the holding device under the blowing chamber, the preparation device having a preparation ring (the limitation "for contact by the filament bundle" is a process limitation that does not have weight in an apparatus claim).

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Schwarz et al teach a preparation ring of a plurality of disks (Fig 1, #6) disposed on a holding device (Fig 1, #9) under a blowing chamber (Fig 1, #4) for the purpose of applying a finish to cooled filaments before winding the filaments (col 6, lines 10-25).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Glawion et al by positioning a preparation ring of a plurality of disks on the holding device instead of on rollers as taught by Schwarz et al because it enables the application of a liquid to the filaments before the filaments are wound which also serves to reduce the number of moving components.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glawion et al (6,062,838) in view of Schwarz et al (5,866,055) as applied to claim 10 and further in view of Boyes et al (4,038,357).

Glawion et al and Schwarz et al teach the apparatus as discussed above including a plurality of disks as a preparation device (taught above by Schwarz et al).

Glawion et al fail to teach a preparation ring that is a plurality of ceramic disks (as discussed Schwarz et al teach a preparation ring that is a plurality of disks).

Boyes et al teach a liquid applying ring that is made of ceramic for the purposes of utilizing the porosity of ceramic to distribute liquid through the ring to filaments.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Glawion et al with a preparation ring on a holding device (as taught above by Schwarz et al) wherein the

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disks are ceramic as taught by Boyes et al because ceramic is a well known porous material enabling distribution of liquid therethrough.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glawion et al (6,062,838) in view of Schwarz et al (5,866,055) as applied to claim 10 and further in view of Stein et al (6,174,474).

Glawion et al and Schwarz et al teach the apparatus as discussed above including a plurality of disks as a preparation device (taught above by Schwarz et al).

Glawion et al fail to teach a preparation ring that is a plurality of ceramic disks (as discussed Schwarz et al teach a preparation ring that is a plurality of disks).

Stein et al teach a ring (Fig 4a, #10) that is made of wear-resistant ceramic for the purposes of guiding filaments without wearing down the guide (col 8, lines 5-15).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Glawion et al with a preparation ring on a holding device (as taught above by Schwarz et al) wherein the disks are ceramic as taught by Stein et al because ceramic is a well known wear resistant material and therefore the cost and time of replacement would be reduced.

#### ***Allowable Subject Matter***

13. Claims 3-5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest a spinning device with a blowing

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chamber attached to a holding device, the blowing chamber engaged by the holding device substantially centrally to the spinning jet and the blowing chamber being displaceable axially relative to the holding device with either a) a biasing device between the blowing chamber and the holding device or b) a spring disposed in an annular space between the connection element of the blowing chamber and a receiving element of the holding device.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Joseph S. Del Sole  
J.S.D. 9/22/03

September 22, 2003